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CENTRAL DIST. OF CALIF.  
LOS ANGELES

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10  
11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13  
14 RAY LaHOOD, Secretary of the  
15 U.S. Department of Transportation,

16 Plaintiff,

17 vs.

18 TIERRA SANTA, INC., a California  
19 corporation; and CAYETANO  
MARTINEZ, an individual,

20 Defendants.  
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Case No: CV10 1659

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CONSENT DECREE

XCHS/2/2010

1 This Consent Decree is entered between Plaintiff Ray LaHood, Secretary of  
2 the U.S. Department of Transportation ("the Secretary"), and Cayetano Martinez  
3 ("Martinez") and Tierra Santa, Inc., along with its shareholders, owners, officers,  
4 and members (collectively "Tierra Santa," and with Martinez, "Defendants"), for  
5 the purpose of resolving the issues raised between the Secretary and the  
6 Defendants by the above-captioned case. The term "Parties" collectively refers to  
7 the Secretary and the Defendants.

8 **BACKGROUND**

9 1. Interstate motor carrier transportation is regulated under Title 49,  
10 Subtitle IV, Part B, of the United States Code. Pursuant to 49 U.S.C. § 13501, the  
11 Secretary of Transportation has authority over interstate motor carrier  
12 transportation of persons or property. Pursuant to 49 U.S.C. § 113(f), the Federal  
13 Motor Carrier Safety Administration ("FMCSA") carries out the powers and duties  
14 of the Secretary related to the regulation of interstate motor carrier transportation.

15 2. Section 13901 of Title 49 of the United States Code provides that a  
16 for-hire motor carrier may not operate over the public highways in interstate or  
17 foreign commerce unless the motor carrier is granted and maintains operating  
18 authority registration with FMCSA. Similarly, 49 C.F.R. § 392.9a(a) provides that  
19 a motor vehicle providing transportation requiring operating authority registration  
20 must not be operated without the required operating authority. For-hire carrier  
21 operations in interstate and foreign commerce without operating authority  
22 registration violates Federal motor carrier statute and regulations.

23 3. Section 13902 of Title 49 of the United States Code provides that a  
24 person may be registered as a motor carrier if that person is able and willing to  
25 comply with the Federal motor carrier statute and accompanying regulations.

26 4. Martinez and Tierra Santa operate as a for-hire motor carrier, as  
27 defined in 49 U.S.C. § 13102, operating commercial motor vehicles, as defined in  
28 49 U.S.C. § 13102 in interstate and foreign commerce. Accordingly, the

1 Defendants are subject to the requirements of the Federal motor carrier statutes,  
2 including 49 U.S.C. §§ 13901 and 13902 and accompanying regulations, including  
3 49 C.F.R. § 392.9a(a).

4 5. The Secretary has brought the complaint against the Defendants  
5 pursuant to 49 U.S.C. § 14702 to enforce the requirements of 49 U.S.C. §§ 13901  
6 and 13902, and accompanying regulations, including 49 C.F.R. § 392.9a(a). The  
7 Secretary's complaint alleged that FMCSA dismissed the Defendants' application  
8 for operating authority registration because the Defendants failed to provide  
9 information and documentation demonstrating they satisfy the requirements for  
10 registration and are able and willing to comply with Federal statute and  
11 regulations. The Secretary's complaint further alleges that the Defendants do not  
12 have and have never had operating authority registration to conduct transportation  
13 in interstate or foreign commerce as Tierra Santa, Inc. The complaint also alleges  
14 that the Defendants have repeatedly operated motor vehicles transporting  
15 passengers in interstate and foreign commerce without having required operating  
16 authority registration from FMCSA. The Secretary seeks declaratory and  
17 injunctive relief to prevent the Defendants from engaging in interstate motor  
18 carrier transportation operations without current, valid operating authority  
19 registration in their current business name or in any other name or identification.

20 6. The Parties have agreed to enter this Consent Decree to resolve the  
21 issues raised by the Secretary's complaint without further litigation.

22 7. The Secretary represents that this Consent Decree serves the public  
23 interest purposes of Title 49, Subtitle IV, Part B, of the United States Code.

24  
25 **CONSENT DECREE**

26 It is therefore agreed, by and between the parties, as follows:

27 1. Martinez and Tierra Santa, their officers, agents, servants, employees,  
28 and attorneys, and persons with whom they are in active concert or participation,

1 are enjoined from operating any commercial motor vehicle in interstate or foreign  
2 commerce that requires operating authority registration in accordance with 49  
3 U.S.C. § 13901 unless and until Martinez or Tierra Santa obtain valid operating  
4 authority from FMCSA. Martinez and Tierra Santa are further enjoined from  
5 contracting with or arranging for additional transportation of passengers unless the  
6 contracted motor carrier possesses valid operating authority registration from  
7 FMCSA.

8 2. This Consent Decree resolves only the Secretary's claims for  
9 declaratory or injunctive relief in the above-captioned action and is without  
10 prejudice to any rights the Secretary has against Defendants with respect to matters  
11 not expressly provided for herein. This Consent Decree does not resolve any other  
12 past, present, or future disputes between the Parties, including but not limited to  
13 proceedings for civil penalties for violations of Federal motor carrier statutes and  
14 regulations, and does not restrict the Secretary from taking any future action  
15 pursuant to his lawful authority to enforce Federal motor carrier statutes and  
16 regulations.

17 3. This Consent Decree is binding upon the Parties as of the date it is  
18 signed by the Parties.

19 4. This Consent Decree becomes an Order of the Court on the date it is  
20 approved.

21 5. If any provision of this Consent Decree is determined to be invalid or  
22 unenforceable for any reason, then such provision shall be treated as severed from  
23 the remainder of the Consent Decree and shall not affect the validity and  
24 enforceability of any of its other provisions, as long as such severance does not  
25 materially change the Parties' rights and obligations.

26 6. This Court shall retain jurisdiction over this matter for the purpose of  
27 interpreting and enforcing the terms of this Consent Decree.

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1        7. Each of the Parties to this Consent Decree shall bear its own fees and  
2 cost.

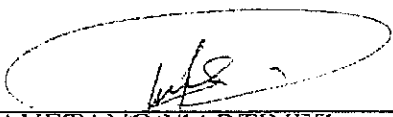
3  
4 DATED: 03/05/10

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6 TIERRA SANTA, INC.

7 By: Cayetano Martinez

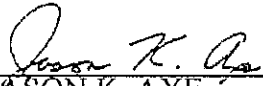
8 Title: President

9  
10 DATED: March 5, 2010

11   
12 CAYETANO MARTINEZ

13  
14 DATED: March 5, 2010

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